

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.247 of 1994

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1. Smt.Kala Kumari Singh wife of Sri Maheshwari Prasad Singh
2. Giridhar Prasad Giri, son of late Ramroop Singh
3. Awadhesh Prasad Singh, son of late Ramroop Singh
4. Mrityunjay Prasad Singh, son of late Ramroop Singh
5. Jai Prakash Singh, son of late Ramroop Singh
6. Brahmdeo Prasad Singh, son of late Madhav Singh
7. Binay Kumar Singh, son of late Madhav Singh
8. Jai Kishore Singh, son of late Madhav Singh
9. Jai Prakash Singh, son of late Madhav Singh
10. Dharmendra Prasad Singh, son of late Madhav Singh
11. Jatashankar Pd. Singh, son of late Madhav Singh
12. Brahmdeo Sharma, son of late Mahanthi Sharma
13. Chaturbhuj Sharma, son of late Mahanthi Sharma
14. Ram Bilash Sharma, son of late Mahanthi Sharma
15. Krishna Nandan Sharma, son of late Mahanthi Sharma. All resident of village
Hario, Police Station Bihpur, district Bhagalpur

.... Petitioners

Versus

1. The State of Bihar
2. The Deputy Collector Land Reforms, Naugachhia
3. Devki Kuer son of Sri Laxmi Narain Kuer
4. Ashok Kuer son of late Hriday Narain Kuer, both resident of village Marwa,
Police Station Bihpur, district Bhagalpur
5. Abhay Nandan Prasad Rai, son of Sri Kuldip Pd. Rai, resident of village
Khajraitha, Police Station Parbatta, district Khagaria
6. Saskaldeo Singh son of late Triveni Singh, resident of village Hario, Police
Station Bihpur, district Bhagalpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Hare Krishna Kumar, Advocate
Mr. Amiya Kunal, Advocate
For the State : Mrs. Nivedita Nirvikar, G.A.-10
Mr. Manoj Kumar, AC to G.A.-10
For the Respondent no.6 : Mr. Uma Kant Shukla, Advocate
Mr. Pramod Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

ORAL JUDGMENT

Date: 16-04-2015

Heard learned counsel for the petitioners, purchaser of
the land in question. Also heard counsel for the State and Respondent
no.6, the under raiyat.



2. Petitioners are aggrieved by the order dated 23.11.1993, Annexure-2 passed by the Land Reforms Deputy Collector, Naugachhia, Respondent no.2 in Case No. 30 of 1989-90 whereunder he has disposed of the proceeding initiated under Section 48E of the B.T. Act holding that private Respondent no.6 is the under raiyat of the lands in question. Said order is being assailed as violative of the mandatory provisions contained in sub-section (4) proviso and sub-section (10) of the said Act, which inter alia empower the Chairman of the Board to nominate member to represent the party in the proceeding who has failed to recommend his Panch to constitute the Board.

3. It is submitted on behalf of the petitioners that DCLR, Collector under the Act appointed Circle Officer, Naugachhia as the Chairman of the Board directing the parties to nominate the Panch. The Panch having not been recommended, the proceeding was withdrawn and decided by the DCLR. It is further submitted on behalf of the petitioners that Panch could not be nominated on their behalf as no notice asking them to nominate the Panch was ever served on them and the matter remained pending whereafter DCLR chose to withdraw the proceedings and decided the dispute without ever taking any steps to nominate a Panch on behalf of the petitioners on the Board.

4. Counsel for the State and private Respondent no.6



with reference to the averments made in paragraph 5 of the counter affidavit filed on behalf of Respondent no.6, submitted that from the impugned order, Annexure-2 itself it is clear that the notices were served on the landlord, but they neither appeared before the Chairman of the Board, Respondent no.2 nor nominated their Panch to constitute the Board and the matter remained pending for about two years which persuaded respondent-DCLR to recall the proceedings from the Circle Officer and to decide the dispute himself and in these circumstances, no interference at this belated stage is called for.

5. I regret not to accept such submission in view of the fact that from the averments made in paragraph 5 of the counter affidavit itself, it will appear that notices were issued by the Chairman of the Board and the DCLR to the landlords. It does not appear either from the order impugned or from any other paragraph of the counter affidavit that notices were issued to the purchasers. In such circumstances, I am of the view that the proceedings may have been kept pending before the Chairman for about two years but without notice to the petitioner-purchasers.

6. Accordingly, I set aside the impugned order dated 23.11.1993, Annexure-2 directing the petitioners and Respondent no.6 to appear before the Circle Officer, Bihpur as the lands in dispute because of passage of time is within his jurisdiction, on or before

25.05.2015 and nominate their Panch on that day or in any case within one week from that date and thereafter the Circle Officer, Bihpur shall proceed with the conciliation and if conciliation fails then grant opportunity to the parties to adduce evidence in the matter to support their claim and adjudicate the dispute within a reasonable time, not exceeding one month from the date both the parties will nominate their Panch. In the event any of the parties fails to nominate Panch within the time indicated above, Circle officer shall nominate Panch on his behalf and conclude the proceeding within one month from the date of nomination made by the Circle Officer.

7. As regards possession, status quo shall be maintained over the lands in question during the interregnum.

8. The application stands disposed of.

(V.N. Sinha, J)

Arjun/-

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